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TO:

The Honorable Detroit City Council

FROM:

David Whitaker

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DATE:

May 22, 2006

RE:

HIGHWAY MAINTENANCE AND REPAIR FEES

FOR INTRA-CITY BUSES

This memorandum is the Research and Analysis Division's (RAD's) response to Council Member Kwame Kenyatta's queries regarding whether D-DOT and SMART are required to pay highway maintenance and repair fees to the City Treasurer pursuant to the Detroit City Code:

- 1) Are D-DOT buses properly characterized as "intracity" buses? If so, have highway maintenance and repair fees been collected from D-DOT, and, what amount has been collected over the past five years?
- 2) Are SMART buses properly characterized as "intercity" buses? Are SMART buses exempt from the highway maintenance and repair fees and, if not, what amount has been collected from SMART over the past five years?

DISCUSSION

The Detroit City Code, in Section 58-4-1, defines inter-city and intra-city buses as follows:

Inter-city bus means a bus which transports passengers for a prescribed fare either from a point or terminus outside the corporate limits of the city to any point or terminus within the corporate limits of the city, or from any point or terminus within the corporate limits of the city to any point or terminus outside the corporate limits of the city. Intra-city bus means a bus which is a common carrier or utility and is operated with regular route service, that does not extend more than ten (10) percent beyond the corporate limits of the city.

Section 58-4-46 of the Code states the requirements for those licensed to operate one or more "intra-city" bus but also carves out several exceptions. Pursuant to the Code, no person shall operate one or more intra-city bus within the City of Detroit without first having obtained from the director of consumer affairs department a license for each such bus except for vehicles operated by the department of transportation.

In accordance with Section 58-4-21, licensees of "intra-city" buses shall pay highway and maintenance fees to the Detroit City Treasurer as follows:

- (1) Three-quarters of one cent for each mile traveled by each bus designed to carry not to exceed thirty (30) seated passengers on a designated route in previous month.
- (2) One cent for each mile traveled by each bus designed to carry thirty-one (31) seated passengers to and including sixty (60) seated passengers on designated route in previous month.
- (3) Two cents (\$0.02) for each mile traveled by each bus designed to carry in excess of sixty (60) seated passengers on designated route in previous month.

Section 58-4-91 of the Code outlines the requirements for those licensed to operate one or more "inter-city" bus and contains several exemptions. Unlike the provisions that pertain to "intra-city" buses, there is no reference in this Section regarding the payment of highway maintenance and repair fees:

No person, as owner, shall operate or cause to be operated one or more inter-city busses on the streets, avenues, boulevards, alleys, public places, thoroughfares and highways of the city without first obtaining a license from the director of consumer affairs department provided however, that a bus operated by the city or licensed or authorized by the statutes of the state or the United States government as a commercial carrier of passengers and covered by insurance or indemnity bonds as required by law is not required to secure a city license (Emphasis added).

¹ The buses operated by D-DOT constitute public transportation which is defined by the Code as: any vehicle organized as a system of transportation that offers to transport the public as individuals for fixed fares, including an arrangement for transfers.

CONCLUSION

According to the Code provisions referenced above, D-DOT and SMART are not required to obtain a business license in order to operate within the City. D-DOT, in its capacity as a public transportation system, is exempt from the payment of "intra-city" fees to the City Treasurer. In addition, the SMART transportation system was created by State statute and, according to Section 58-4-91, is not required to obtain a license². Pursuant to MCL 124.401 *et seq.*, the Southeastern Michigan Transportation Authority (SEMTA) was created in 1967. The statute was amended in 1989 and SEMTA was renamed SMART (Suburban Mobility Authority for Regional Transportation).

For a list of all "intra-city" buses that are licensed to operate in the City of Detroit and the amount of highway maintenance and repair fees that have been collected from the owners of those vehicles over the past five years, RAD recommends that Council refer this matter to Consumers Affairs.

² There may be contracts or other agreements that have altered the relationship between SMART and D-DOT and provide for the payment of certain fees. Toward that end, RAD is aware that Council has asked D-DOT to provide information regarding any fees that SMART may owe the City of Detroit.